

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

APRIL MAGOLON,	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	
	:	
WALT DISNEY PARKS AND RESORTS,	:	CASE NO.
LLC,	:	
	:	
Defendant.	:	
	:	

**NOTICE OF REMOVAL**

Defendant Walt Disney Parks and Resorts, LLC (now known as Disney Destinations, LLC) (“Defendant”), by and through its counsel, Drinker Biddle & Reath LLP, and pursuant to 28 U.S.C. §§ 1441 and 1446, gives notice of the removal of this action from the Court of Common Pleas of Philadelphia County, Pennsylvania, to the United States District Court for the Eastern District of Pennsylvania. In support of this notice, Defendant states:

1. On or about December 30, 2009, plaintiff April Magolon (“Plaintiff”) commenced an action in the Court of Common Pleas of Philadelphia County, Pennsylvania, entitled Magolon v. Walt Disney Parks and Resorts, LLC, bearing Civil Action No. 3320, by filing a Praecept To Issue Writ Of Summons (the “Praecept”). Defendant received a copy of the Praecept and Plaintiff’s Civil Cover Sheet on January 8, 2010. On March 12, 2010, Defendant received a copy of a Scheduling Order. On May 3, 2010, Defendant received a copy of a second Scheduling Order. On June 3, 2010, Defendant received a copy of a third Scheduling Order. On June 29, 2010, Defendant received a Rule and Order to Show Cause. On July 15, 2010, Defendant obtained a copy of Plaintiff’s Complaint and Notice to Defend. In accordance with 28 U.S.C. § 1446(a), true and correct copies of the foregoing documents are attached as exhibits as

follows: Exhibit A—the Praeclipe and Plaintiff's Civil Cover Sheet; Exhibit B—the three Scheduling Orders; Exhibit C—the Rule and Order to Show Cause; and Exhibit D—Plaintiff's Complaint and Notice to Defend. Exhibits A through D constitute all of the process, pleadings and orders received by Defendant. Defendant is not aware of any other pleadings or orders filed in this action.

2. Plaintiff's Complaint contains claims against the defendant for negligence, negligent infliction of emotional distress, battery, and intentional infliction of emotional distress and seeks, among other things, compensatory damages and punitive damages.

#### **JURISDICTION AND VENUE**

3. This action is a civil action over which this court has original jurisdiction pursuant to 28 U.S.C. § 1332 because this action is between citizens of different states and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs. This action, therefore, may be removed to this court by Defendant pursuant to 28 U.S.C. §§ 1441 and 1446. Removal is timely under 28 U.S.C. § 1446(b) because this notice was filed within 30 days of Defendant's receipt of Plaintiffs' Complaint. Venue is proper in this Court under 28 U.S.C. § 1441(a) because the action is being removed from the Court of Common Pleas of Philadelphia County, Pennsylvania, which is located in the Eastern District of Pennsylvania. Removal of this case to this Court does not constitute a waiver by Defendant of its right to seek dismissal of this lawsuit or to transfer this case to the United States District Court for the Middle District of Florida pursuant to 28 U.S.C. § 1404. Moreover, removal of this lawsuit shall not subject Defendant or any later-joined defendant to jurisdiction in this state.

4. Plaintiff is a citizen of Pennsylvania residing at 28 Erna Court, Upper Darby, Pennsylvania 19082. Defendant is a corporation duly organized and existing under the laws of

the State of Florida and has its principal place of business in Florida. Therefore, diversity of citizenship exists.

5. The Civil Cover Sheet filed by Plaintiff gave Plaintiff the option of indicating that the amount in controversy was either more than \$50,000 or less than \$50,000, and she indicated that the amount in controversy is more than \$50,000. With respect to each of the four Counts in Plaintiff's Complaint, Plaintiff demands a sum in excess of \$50,000 in compensatory damages. Plaintiff's Complaint alleges that Defendant's employee grabbed Plaintiff's breast and molested her while she was vacationing and that she has suffered, among other injuries, "severe physical injury, emotional anguish and distress including, but not limited to post-traumatic stress disorder, muscle contraction headaches, physical harm resulting from distress, including but not limited to acute anxiety, headaches, nausea, cold sweats, insomnia, nightmares, flashbacks, digestive problems" and that Plaintiff suffered "severe pains, mental anxiety and anguish, and a severe shock to her entire nervous system." The Complaint further alleges that Plaintiff "has in the past and will in the future undergo severe pain and suffering as a result of which she has been in the past and will in the future be unable to attend to her usual duties and occupation, all to her great financial detriment and loss." The Complaint further alleges that Plaintiff's injuries are permanent. The Complaint also seeks punitive damages. Therefore, the amount in controversy exceeds \$75,000, exclusive of costs and interest.

6. Pursuant to 28 U.S.C. § 1446(d), Defendant is, concurrently with the filing of this Notice of Removal, providing notice to Plaintiff and the Court of Common Pleas of Philadelphia County, Pennsylvania of Defendant's filing of this Notice of Removal with this Court.

WHEREFORE, Defendant respectfully removes this action from the Court of Common Pleas of Philadelphia County, Pennsylvania, to this Court, pursuant to 28 U.S.C. §§ 1441 and 1446.

Dated: August 6, 2010



Frederick P. Marczyk  
Attorney Identification No. 89878  
DRINKER BIDDLE & REATH LLP  
One Logan Square, Ste. 2000  
Philadelphia, PA 19103-6996  
Phone: (215) 988-2700  
Fax: (215) 988-2757  
E-mail: [frederick.marczyk@dbr.com](mailto:frederick.marczyk@dbr.com)

Attorney for Defendant  
Walt Disney Parks and Resorts, LLC  
(now known as Disney Destinations, LLC)

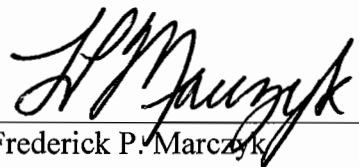
**CERTIFICATE OF SERVICE**

I hereby certify that I today served a copy of the foregoing Notice of Removal along with the exhibits thereto by first-class mail, postage prepaid, on:

Michael O. Pansini, Esq.  
PANSINI & MEZROW  
1525 Locust Street, 15th Floor  
Philadelphia, Pennsylvania 19102

Counsel for Plaintiff

Dated: August 6, 2010



Frederick P. Marczyk

# **EXHIBIT A**

Court of Common Pleas of Philadelphia County  
Trial Division  
**Civil Cover Sheet**

		For Prothonotary Use Only (Docket Number)			
		<b>DECEMBER 2009</b> <b>003320</b>			
		E-Filing Number: 0912043743			
PLAINTIFF'S NAME APRIL MAGOLON		DEFENDANT'S NAME WALT DISNEY PARKS & RESORTS, LLC C/O CORPORATION SERVICE CO.			
PLAINTIFF'S ADDRESS 28 ERNA COURT UPPER DARBY PA 19082		DEFENDANT'S ADDRESS 2704 COMMERCE DRIVE HARRISBURG PA 17110			
PLAINTIFF'S NAME		DEFENDANT'S NAME			
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS			
PLAINTIFF'S NAME		DEFENDANT'S NAME			
PLAINTIFF'S ADDRESS		DEFENDANT'S ADDRESS			
TOTAL NUMBER OF PLAINTIFFS 1	TOTAL NUMBER OF DEFENDANTS 1	COMMENCEMENT OF ACTION			
		<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition Action	<input type="checkbox"/> Notice of Appeal	
		<input checked="" type="checkbox"/> Writ of Summons	<input type="checkbox"/> Transfer From Other Jurisdictions		
AMOUNT IN CONTROVERSY		COURT PROGRAMS			
<input type="checkbox"/> \$50,000.00 or less <input checked="" type="checkbox"/> More than \$50,000.00		<input type="checkbox"/> Arbitration	<input type="checkbox"/> Mass Torts	<input type="checkbox"/> Commerce	<input type="checkbox"/> Settlement
		<input checked="" type="checkbox"/> Jury	<input type="checkbox"/> Savings Action	<input type="checkbox"/> Minor Court Appeal	<input type="checkbox"/> Minors
		<input type="checkbox"/> Non-Jury	<input type="checkbox"/> Petition	<input type="checkbox"/> Statutory Appeals	<input type="checkbox"/> W/D/Survival
		<input type="checkbox"/> Other:			
CASH TYPE AND CODE 2B - ASSAULT, BATTERY					
STATUTORY BASIS FOR CAUSE OF ACTION					
RELATED PENDING CASES (LIST BY CASE CAPTION AND DOCKET NUMBER)			<b>FILED PROTHONOTARY</b> DEC 30 2009 J. MURPHY		IS CASE SUBJECT TO COORDINATION ORDER? YES <input type="checkbox"/> NO <input type="checkbox"/>
TO THE PROTHONOTARY: Kindly enter my appearance on behalf of Plaintiff/Petitioner/Appellant: <u>APRIL MAGOLON</u> Papers may be served at the address set forth below.					
NAME OF PLAINTIFF/PETITIONER/APPELLANT'S ATTORNEY MICHAEL O. PANSINI			ADDRESS PANSINI & MEZROW 1525 LOCUST ST 15TH FLOOR PHILADELPHIA PA 19102		
PHONE NUMBER (215) 732-5555	FAX NUMBER (215) 732-7872				E-MAIL ADDRESS MPansini@Pansinilaw.com
SUPREME COURT IDENTIFICATION NO. 44455			DATE SUBMITTED Wednesday, December 30, 2009, 03:31 pm		
SIGNATURE OF FILING ATTORNEY OR PARTY MICHAEL PANSINI					

FINAL COPY (Approved by the Prothonotary Clerk)

PANSINI & MEZROW  
BY: MICHAEL O. PANSINI, ESQUIRE  
I.D. #: 44455  
1525 LOCUST STREET, 15<sup>TH</sup> FLOOR  
PHILADELPHIA, PA 19102  
215-732-5555

JURY TRIAL DEMANDED

FILED AND ATTACHED BY  
PROTHONOTARY  
JULY 30 2009 10:35 AM

ATTORNEY FOR PLAINTIFF

APRIL MAGOLON  
28 Elm Court  
Upper Darby, PA 19082

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY  
CIVIL ACTION

v.

TERM, 2009

WALT DISNEY PARKS AND RESORTS, LLC  
c/o CORPORATION SERVICE COMPANY  
2704 Commerce Drive  
Harrisburg, PA 17110

NO.:

PRAECLPICE TO ISSUE WRIT OF SUMMONS

TO THE PROTHONOTARY:

Kindly issue Writ of Summons - Civil Action to the Defendant in the above-captioned matter.

Respectfully submitted,

PANSINI & MEZROW

BY: /S/ MICHAEL O. PANSINI  
MICHAEL O. PANSINI, ESQUIRE  
Attorney for Plaintiff

DATED: December 30, 2009

COP

Commonwealth of Pennsylvania  
CITY AND COUNTY OF PHILADELPHIA

SUMMONS  
CITACION

April Magolon  
28 Erna Court  
Upper Darby, PA 19082

COURT OF COMMON PLEAS

Term, 20\_\_\_\_\_

No. \_\_\_\_\_

v.s.

Walt Disney Parks and Resorts, LLC c/o  
Corporation Service Company  
2704 Commerce Drive, Harrisburg, PA 17110

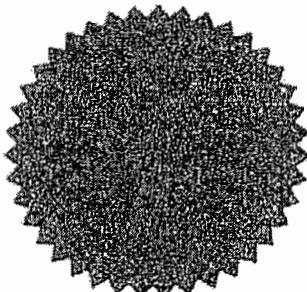
To<sup>(1)</sup>

Walt Disney Parks and Resorts, LLC c/o  
Corporation Service Company

You are notified that the Plaintiff<sup>(2)</sup>  
*Usted esta avisado que el demandante<sup>(2)</sup>*

April Magolon

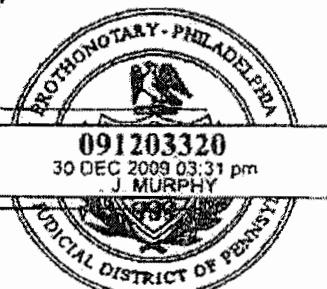
Has (have) commenced an action against you.  
*Han (han) iniciado una accion en contra suya.*



JOSEPH H. EVERE  
Prothonotary

By \_\_\_\_\_

Date \_\_\_\_\_



<sup>(1)</sup> Name(s) of Defendant(s)  
<sup>(2)</sup> Name(s) of Plaintiff(s)

COURT OF COMMON PLEAS

Term, 20 No. \_\_\_\_\_

April Magolan  
28 Ena Court  
Upper Darby, PA 19082

vs.  
Walt Disney Parks and Resorts, LLC c/o  
Corporation Service Company  
2704 Commerce Drive, Harrisburg, PA 17110

SUMMONS

RECEIVED  
2010 JAN -7 PM 1:31  
DAUPHIN COUNTY  
SHERIFF'S OFFICE  
HARRISBURG, PA 17101

# **EXHIBIT B**

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION - CIVIL

WALT DISNEY PARKS & RESORTS, LLC C/O CORPORATION SERVICE CO.  
2704 COMMERCE DRIVE  
HARRISBURG, PA 17110

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

SCHEDULING ORDER

AND NOW, MARCH 09, 2010, it is hereby Ordered that:

1. A Case Management Conference is scheduled on April 07, 2010, at 11:00 A.M., in Courtroom 613, City Hall, Philadelphia, PA 19107.
2. Counsel for Plaintiff is directed to serve a copy of the Order on any unrepresented party or any attorney entering an appearance subsequent to the issuance of this Order. Attendance by all counsel of record is mandatory.
3. The Conference will be conducted by a Civil Case Manager who shall act on behalf of the Honorable JACQUELINE ALLEN.
4. This case has been presumptively assigned to the MAJOR JURY-EXPEDITED Case Management Track. Accordingly, trial of this case will occur on or shortly after 03-JAN-11.
5. Within sixty (60) days of the commencement of the action, counsel for the plaintiff(s) and defendant(s) shall meet or confer for an initial discovery conference, where the parties shall make a good faith effort to agree upon a proposed discovery plan as well as a proposed projected pretrial Court event schedule. If service of the Complaint is not effectuated within sixty (60) days of commencement of the action, the parties shall meet or confer for the initial discovery conference within thirty (30) days of service thereof, provided that the discovery conference is held prior to the scheduled Case Management Conference.

SCHEDULING ORDER page 2

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

6. At the Case Management Conference, counsel shall present a mutually agreed upon discovery plan and proposed pretrial court event schedule. The discovery plan shall not alter or adjust the projected trial date. If the parties cannot agree on a jointly submitted discovery plan or projected pretrial court event schedule, the court will impose one at the conclusion of the conference. Counsel must also be prepared to address all relevant issues regarding venue, service of process, pleadings, discovery, possible joinder of additional parties, theories of liability or defense and damages claimed.

7. All applicable parts of the enclosed conference management memorandum shall be completed and brought to the conference.

8. If the case settles prior to the conference, fax a notice to 215-686-3709. Questions concerning the Order and its contents shall be referred to 215-686-3710.

OFFICE OF CIVIL ADMINISTRATION



FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
TRIAL DIVISION—CIVIL  
DAY FORWARD/MAJOR JURY PROGRAM  
CASE MANAGEMENT CONFERENCE

---

ADVICE TO COUNSEL

---

1. Be sure to fully complete the Case Management Conference Memorandum prior to the Case Management Conference. Consult clients well in advance of the conference to obtain pertinent information to prepare the memorandum. When supplying information on injuries or damages, it is insufficient for plaintiff to state "unknown," "to be supplied," or "under investigation." In stating factual positions as to liability it is insufficient to use non-descriptive terms, such as "liability certain," "100% liability," or "clear liability."
2. Bring enough copies of the Case Management Conference Memorandum to supply to all parties at the time of the Conference, as copies may not be made at the Center. Bring an extra copy or two, if possible.
3. Be fully prepared to discuss issues relating to service of process, venue, pleadings, discovery, joinder of additional parties, theories of liability, damages, and applicable defenses. Parties are encouraged to discuss these issues amongst themselves prior to the conference when possible. **Participation from fully prepared and cooperative parties leads to a more productive and meaningful conference.**
4. Conduct discovery as soon as practicable, even while awaiting disposition of preliminary objections. The presumptive Day Forward discovery deadlines are calculated from the filing date of an action, not from the date of the Case Management Conference. The Pendency of Preliminary Objections does not stay discovery. If a formal stay is necessary, the parties should petition the Court accordingly.
5. Consider voluntarily transferring your case to the Compulsory Arbitration Program where appropriate. The Case Managers can generate a Praeclipe to Transfer and schedule a hearing date for you. All cases having an amount in controversy, exclusive of interest and costs, of \$50,000 and less (except cases involving title to real estate) shall be assigned to the Compulsory Arbitration Program. (See *Philadelphia County Rules*, Rule \*1301). The Day Forward Team Leaders may *sua sponte* remand matters to the Compulsory Arbitration Program accordingly. (See Pa.R.C.P. 1021 (d)).

6. Be mindful that the Case Managers are acting on behalf of the Judicial Team Leaders and are empowered to issue appropriate orders to enforce compliance with Day Forward Program procedures and applicable Rules of Civil Procedure. Any Rule to Show Cause entered will be returnable before the Day Forward Team Leader. (See *Philadelphia County Rules*, General Court Regulation No. 95-2).

7. After you leave the Case Management Conference Center, carefully review the entire Case Management Order. Be sure to promptly note all deadlines on your calendaring or tickler system. You will receive notice from the Court of actual Settlement Conference and Pre-trial Conference dates and related instructions in due course.

8. Motions for Extraordinary Relief seeking extension of deadlines must be filed before the expiration of the deadlines at issue.

9. Please direct questions regarding Case Management, including scheduling or rescheduling of Case Management Conferences to the Case Management Conference Center at (215) 686-3710 or through facsimile at (215) 686-3709.

*Prepared by:*

Stanley Thompson, Esq.  
Supervising Civil Case Manager

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION

**CASE MANAGEMENT CONFERENCE MEMORANDUM**

Filing party: \_\_\_\_\_ By: \_\_\_\_\_, Esq.

Counsel's address and telephone number (IMPORTANT) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Part A**  
*(to be completed in personal injury cases)*

1. Date of accident or occurrence: \_\_\_\_\_

1(a). Age of Plaintiff(s): \_\_\_\_\_

2. Most serious injuries sustained: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. Is there any permanent injury claimed?  Yes  No

If yes, indicate the type of permanent injury: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Dates of medical treatment: \_\_\_\_\_

5. Is medical treatment continuing?  Yes  No

6. Has there been an inpatient hospitalization?  Yes  No

*This form shall be presented to the Case Manager and copies served upon all parties at the Case Management Conference by counsel prepared to discuss its contents.*

7. Has there been any surgery?  Yes  No  
 If yes, indicate the type of surgery: \_\_\_\_\_

8. Approximate medical bills to date: \$\_\_\_\_\_  
 Approximate medical bills recoverable in this case: \$\_\_\_\_\_

9. Are there any existing liens (Workers Compensation, DPW, Medical, etc.)?  Yes  No  
 If yes, what type and approximate amount? \_\_\_\_\_

10. Time lost from work: \_\_\_\_\_

11. Approximate past lost wages: \_\_\_\_\_

12. Is there a claim for future lost earning capacity?  Yes  No  
 If yes, approximate future lost earning capacity: \_\_\_\_\_

13. Are there any related cases or claims pending?  Yes  No  
 If so, list caption(s) or other appropriate identifier:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

14. Do you anticipate joining additional parties?  Yes  No

15. Plaintiff's factual position as to liability:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

16. Defense factual position as to liability:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

17. Defense position as to causation of injuries alleged: \_\_\_\_\_

18. Identify all applicable insurance coverage:

Defendant	Insurance Carrier	Coverage Limits
_____	_____	_____
_____	_____	_____
_____	_____	_____

Are there issues as to the applicability  
 of the above insurance coverage?  Yes  No

19. Demand: \$\_\_\_\_\_ Offer: \$\_\_\_\_\_

**Part B**  
*(to be completed in all cases other than personal injury)*

1. Date of contract of transaction: \_\_\_\_\_

2. Is there a writing?  Yes  No

If yes, is there an allegation that the writing does  
not contain the entire agreement of the parties?  Yes  No

3. Is the Uniform Commercial Code applicable to this case?  Yes  No

4. Describe the nature of the conduct alleged as giving rise to the cause of action:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. State the amount of damages claimed by Plaintiff:

(a) Direct \_\_\_\_\_

(b) Consequential \_\_\_\_\_

(c) Other (specify) \_\_\_\_\_

6. Defense position as to alleged nature of conduct giving rise to cause of action and any counterclaim:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

7. If there is a counterclaim, state the amount of damages sought:

(a) Direct \_\_\_\_\_

(b) Consequential \_\_\_\_\_

(c) Other (specify) \_\_\_\_\_

8. Identify all applicable insurance coverage:

Defendant	Insurance Carrier	Coverage Limits
_____	_____	_____
_____	_____	_____

9. Demand: \$\_\_\_\_\_ Offer: \$\_\_\_\_\_

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION - CIVIL

WALT DISNEY PARKS & RESORTS, LLC C/O CORPORATION SERVICE CO.  
2704 COMMERCE DRIVE  
HARRISBURG, PA 17110

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

SCHEDULING ORDER

AND NOW, APRIL 30, 2010, it is hereby Ordered that:

1. A Case Management Conference is scheduled on June 07, 2010, at 03:00 P.M., in Courtroom 613, City Hall, Philadelphia, PA 19107.
2. Counsel for Plaintiff is directed to serve a copy of the Order on any unrepresented party or any attorney entering an appearance subsequent to the issuance of this Order. Attendance by all counsel of record is mandatory.
3. The Conference will be conducted by a Civil Case Manager who shall act on behalf of the Honorable JACQUELINE ALLEN.
4. This case has been presumptively assigned to the MAJOR JURY-EXPEDITED Case Management Track. Accordingly, trial of this case will occur on or shortly after 03-JAN-11.
5. Within sixty (60) days of the commencement of the action, counsel for the plaintiff(s) and defendant(s) shall meet or confer for an initial discovery conference, where the parties shall make a good faith effort to agree upon a proposed discovery plan as well as a proposed projected pretrial Court event schedule. If service of the Complaint is not effectuated within sixty (60) days of commencement of the action, the parties shall meet or confer for the initial discovery conference within thirty (30) days of service thereof, provided that the discovery conference is held prior to the scheduled Case Management Conference.

SCHEDULING ORDER page 2

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

6. At the Case Management Conference, counsel shall present a mutually agreed upon discovery plan and proposed pretrial court event schedule. The discovery plan shall not alter or adjust the projected trial date. If the parties cannot agree on a jointly submitted discovery plan or projected pretrial court event schedule, the court will impose one at the conclusion of the conference. Counsel must also be prepared to address all relevant issues regarding venue, service of process, pleadings, discovery, possible joinder of additional parties, theories of liability or defense and damages claimed.

7. All applicable parts of the enclosed conference management memorandum shall be completed and brought to the conference.

8. If the case settles prior to the conference, fax a notice to 215-686-3709. Questions concerning the Order and its contents shall be referred to 215-686-3710.

If you are receiving this notice electronically, you must retrieve an important document associated with this notice by copying and pasting the following web address into your web browser or, if able, by clicking the link below to view the related document(s).

<http://www.courts.phila.gov/pdf/forms/civil/01-105-cmcmm.pdf>

OFFICE OF CIVIL ADMINISTRATION

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
TRIAL DIVISION - CIVIL

WALT DISNEY PARKS & RESORTS, LLC C/O CORPORATION SERVICE CO.  
2704 COMMERCE DRIVE  
HARRISBURG, PA 17110

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

SCHEDULING ORDER

AND NOW, MAY 29, 2010, it is hereby Ordered that:

1. A Case Management Conference is scheduled on June 18, 2010, at 11:00 A.M., in Courtroom 613, City Hall, Philadelphia, PA 19107.
2. Counsel for Plaintiff is directed to serve a copy of the Order on any unrepresented party or any attorney entering an appearance subsequent to the issuance of this Order. Attendance by all counsel of record is mandatory.
3. The Conference will be conducted by a Civil Case Manager who shall act on behalf of the Honorable JACQUELINE ALLEN.
4. This case has been presumptively assigned to the MAJOR JURY-EXPEDITED Case Management Track. Accordingly, trial of this case will occur on or shortly after 03-JAN-11.
5. Within sixty (60) days of the commencement of the action, counsel for the plaintiff(s) and defendant(s) shall meet or confer for an initial discovery conference, where the parties shall make a good faith effort to agree upon a proposed discovery plan as well as a proposed projected pretrial Court event schedule. If service of the Complaint is not effectuated within sixty (60) days of commencement of the action, the parties shall meet or confer for the initial discovery conference within thirty (30) days of service thereof, provided that the discovery conference is held prior to the scheduled Case Management Conference.

SCHEDULING ORDER page 2

MAGOLON VS WALT DISNEY PARKS & RESORTS, LLC C/O CO  
091203320

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7. All applicable parts of the enclosed conference management memorandum shall be completed and brought to the conference.

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<http://www.courts.phila.gov/pdf/forms/civil/01-105-cmcm.pdf>

OFFICE OF CIVIL ADMINISTRATION

# **EXHIBIT C**

IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA  
CIVIL TRIAL DIVISION



*MAGOLON*

*VS*

*WALT DISNEY PARKS & RESORTS, LLC C/O  
CO*

*December Term 2009*

*No. 03320*

***ORDER and RULE***

***AND NOW***, Tuesday, June 29, 2010, the plaintiff is directed to timely prosecute the above captioned matter by filing a Complaint.

A Rule is entered upon plaintiff to Show Cause why the matter should not be non prossed. The Rule is Returnable before the Day Forward Team Leader on 29-JUL-2010, at 10:00 AM, in CITY HALL COURTROOM 480, Philadelphia, Pennsylvania.

All counsel must appear unless the case is settled or withdrawn, in which case counsel is directed to notify the court immediately in writing.

If a complaint is filed and service effected prior to the Rule Returnable date, counsels' appearance is for the purpose of conducting a case management conference.

*BY THE COURT:*

*ALLEN, JACQUELINE F., J.*

PTS97761(REV 5/05)

**DOCKETED**

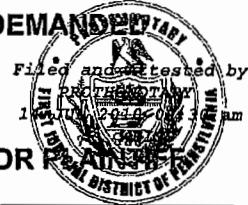
*JUL 29 2010*

**PAUL SALTER**

# **EXHIBIT D**

PANSINI & MEZROW  
BY: MICHAEL O. PANSINI, ESQUIRE  
I.D. #: 44455  
1525 LOCUST STREET, 15<sup>TH</sup> FLOOR  
PHILADELPHIA, PA 19102  
215-732-5555

JURY TRIAL DEMAND



ATTORNEY FOR PLAINTIFF

APRIL MAGOLON	:	COURT OF COMMON PLEAS
	:	PHILADELPHIA COUNTY
	:	CIVIL ACTION
V.	:	DECEMBER TERM, 2009
	:	
WALT DISNEY PARKS AND RESORTS, LLC	:	NO.: 3320

**CIVIL ACTION - COMPLAINT - NOTICE TO DEFEND**

YOU HAVE BEEN SUED IN COURT. IF YOU WISH TO DEFEND AGAINST THE CLAIMS SET FORTH IN THE FOLLOWING PAGES, YOU MUST TAKE ACTION WITHIN TWENTY (20) DAYS AFTER THIS COMPLAINT AND NOTICE ARE SERVED, BY ENTERING A WRITTEN APPEARANCE PERSONALLY OR BY AN ATTORNEY AND FILING IN WRITING WITH THE COURT YOUR DEFENSES OR OBJECTIONS TO THE CLAIMS SET FORTH AGAINST YOU. YOU ARE WARNED THAT IF YOU FAIL TO DO SO THE CASE MAY PROCEED WITHOUT YOU AND A JUDGMENT MAY BE ENTERED AGAINST YOU BY THE COURT WITHOUT FURTHER NOTICE FOR ANY MONEY CLAIMED OR FOR ANY OTHER CLAIM OR RELIEF REQUESTED BY THE PLAINTIFF. YOU MAY LOSE MONEY OR PROPERTY OR OTHER RIGHTS IMPORTANT TO YOU.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Philadelphia Bar Association  
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One Reading Center  
Philadelphia, Pennsylvania 19107  
(215) 238-1701

LE HAN DEMANDADO A USTED EN LA CORTE. SI USTED QUIERE DEFENDERSE DE ESTAS DEMANDAS EXPUESTAS EN LAS PAGINAS SIGUIENTES, USTED TIENE VIENTE(20) DIAS, DE PLAZO AL PARTIR DE LA FECHA DE LA DEMANDA Y LA NOTIFICATION. HACE FALTA ASENTAR UNA COMPARENCIA ESCRITA O EN FORMA ESCRITA SUS DEFENSAS O SUS OBJECCIONES A LAS DEMANDAS EN CONTRA DE SU PERSONA. SEA AVISADO QUE SI USTED NO SE DEFIENDE, LA CORTE TOMARA MEDIDAS Y PUEDE CONTINUAR LA DEMANDA EN CONTRA SUYA SIN PREVIO AVISO O NOTIFICACION. ADEMÁS, LA CORTE PUEDE DECIDIR A FAVOR DEL DEMANDANTE Y REQUIERE QUE USTED CUMPLA CON TODAS LAS PROVISIONES DE ESTA DEMANDA, USTED PUEDE PERDER DINERO O SUS PROPIEDADES U OTROS DERECHOS IMPORTANTES PARA USTED.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATAMENTE. SI NO TIENE ABOGADO O SI NO TIENE EL DINERO SUFFICIENTE DE TELEFONO A LA OFICINA CUYA DIRECCION SE ENCUENTRA ESCRITA ABAJO PARA AVERIGUAR DONDE SE PUEDE CONSEGUIR ASISTENCIA LEGAL.

Asociación de Licenciados de Filadelfia  
Servicio de Referencia e Información Legal  
One Reading Center  
Filadelfia, Pennsylvania 19107  
(215) 238-1701

**CIVIL ACTION - COMPLAINT**

1. Plaintiff, **APRIL MAGOLON**, is an adult individual residing at 28 Erna Court, Upper Darby, Pa 19082.

2. Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, is a Domestic and/or Foreign Corporation, with offices for the acceptance of service of process at 2704 Commerce Drive, Harrisburg, PA 17110. At all times relevant hereto, said Defendant has engaged in business within the County of Philadelphia, Commonwealth of Pennsylvania, on a regular, systematic, continuous and substantial basis.

3 At all times material hereto, the Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, was acting through its respective agents (actual, apparent or ostensible), servants and/or employees, acting in the course of their employment and within the scope of their authority with the said Defendant and in furtherance of said Defendant's business, employed, trained, managed, serviced, controlled, and supervised the person hereinafter described whose culpable conduct was a cause of the injuries sustained by Plaintiff, **APRIL MAGOLON**.

4. At all times material hereto, the Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, acted as the agent (actual, apparent or ostensible) of Walt Disney World Co. and Walt Disney Parks and Resorts, U.S. Inc.

5. On or about May 20, 2008, the Plaintiff, **APRIL MAGOLON**, was an invitee and guest on the premises of the Defendant's resort known as Epcot Center in Florida which said premises and facilities was owned, operated, managed, controlled and/or supervised by the Defendant.

6. Plaintiff, **APRIL MAGOLON**, was accompanied by her young children and her

fiance.

7. On the aforesaid date, while holding one of her children in her arms, Plaintiff, **APRIL MAGOLON**, approached one of the Defendant's agents, servants, workmen and/or employees who was dressed in a Donald Duck costume in order to obtain an autograph.

8. The agent, servant, workman and/or employee of Defendant dressed as Donald Duck proceeded to grab Plaintiff, **APRIL MAGOLON**'s breast and molest her and then made gestures making a joke indicating he had done something wrong.

9. This incident is one of a long line of continuing, long standing, similar prior incidents that have occurred on Defendant's various resort premises which were caused by its agents, servants, workmen and/or employees and which incidents were condoned by the Defendant.

10. Authorities in Florida received 24 more complaints in the week since a Walt Disney World employee was charged with molesting a 13-year-old girl and her mother while dressed as the character "Tigger" in 2004.

11. Numerous of those cases were deemed credible enough to be investigated by the Orange County Sheriff's Office.

12. One of Defendant's employees, Michael Chartrand, was arrested and charged with one count of lewd and lascivious molestation of a child and one count of simple battery.

13. In that case the sheriff's office received a complaint that the costumed character had touched the girl and her mother inappropriately while their pictures were being taken.

14. According to an incident report, Chartrand fondled the breasts of the girl and

the mother while posing for pictures at the Magic Kingdom's Toon Town.

15. Despite knowledge of these continuing, long standing, similar prior incidents, the Defendant failed to act to ensure the incidents would cease in reckless disregard for the safety and welfare of its invitees, customers, and patrons.

16. Upon information and belief, at all times relevant hereto, the Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, has engaged in a practice of placing corporate profits over public safety while attempting to cover up continuing, long standing, similar prior incidents through its refusal to take affirmative steps to ensure that they immediately ceased.

17. As a result of the aforesaid, Plaintiff, **APRIL MAGOLON**, has suffered severe physical injury, emotional anguish and distress including, but not limited to post-traumatic stress disorder, muscle contraction headaches, physical harm resulting from distress, including, but not limited to acute anxiety, headaches, nausea, cold sweats, insomnia, nightmares, flashbacks, digestive problems and exacerbation of the physical injuries and other severe emotional injuries. The Plaintiff, **APRIL MAGOLON**, suffered injuries of an unknown nature; she suffered severe pains, mental anxiety and anguish, and a severe shock to her entire nervous system, and other injuries the full extent of which are not yet known. She has in the past and will in the future undergo severe pain and suffering as a result of which she has been in the past and will in the future be unable to attend to her usual duties and occupation, all to her great financial detriment and loss. The Plaintiff, **APRIL MAGOLON**, believes and therefore avers that her injuries are permanent in nature.

18. As a result of the aforesaid, the Plaintiff, **APRIL MAGOLON**, has been compelled, in order to effectuate a cure for the aforesaid injuries, to expend large sums of

money for medicine and medical attention and may be required to expend additional sums for the same purposes in the future.

19. As a result of the aforesaid, the Plaintiff, **APRIL MAGOLON**, has been prevented from attending to her usual and daily activities and duties, and may be so prevented for an indefinite time in the future, all to her great detriment and loss.

20. As a result of the aforesaid, the Plaintiff, **APRIL MAGOLON**, has suffered physical pain, emotional pain, mental anguish and humiliation and she may continue to suffer same for an indefinite period of time in the future.

21. As a result of the aforesaid, the Plaintiff, **APRIL MAGOLON**, was forced to expend large sums of money for a ruined vacation.

**COUNT I  
NEGLIGENCE**

22. The above averments are incorporated herein and made a part hereof as if set forth at length.

23. At all times material hereto, Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, acted in a careless, reckless and/or negligent manner.

24. At all times material hereto, Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, acted in reckless disregard for the safety and welfare of its patrons, including Plaintiff, **APRIL MAGOLON**.

25. The carelessness, negligence and/or recklessness of the Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, consisted of the following:

- a. negligently inflicting emotional distress upon Plaintiff, **APRIL MAGOLON**;
- b. committing a physically menacing act which put Plaintiff, **APRIL**

**MAGOLON**, in fear of immediate bodily injury and humiliation;

- c. terrorizing Plaintiff, **APRIL MAGOLON**,
- d. creating a fear of immediate harm in Plaintiff, **APRIL MAGOLON**;

26. As a result of the aforesaid, Plaintiff, **APRIL MAGOLON**, has suffered injuries and damages as set forth length in the preceding paragraphs.

**WHEREFORE**, Plaintiff, **APRIL MAGOLON**, demands damages of the Defendant in a sum in excess of Fifty Thousand (\$50,000.00) Dollars plus delay damages, punitive damages, costs, interest, and other damages permitted by law.

**COUNT II**  
**NEGLIGENT INFILCTION OF EMOTIONAL DISTRESS**

27. The averments of the preceding paragraphs are incorporated herein and made a part hereof.

28. It was reasonably foreseeable that the conduct of Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, described in the foregoing paragraphs of this complaint by and through its agents, servants and/or employees, would put Plaintiff, **APRIL MAGOLON**, in fear of imminent bodily injury and humiliation causing severe emotional distress.

29. As a result of the aforesaid, Plaintiff, **APRIL MAGOLON**, has suffered injuries and damages as set forth length in the preceding paragraphs.

**WHEREFORE**, Plaintiff, **APRIL MAGOLON**, demands damages of the Defendant in a sum in excess of Fifty Thousand (\$50,000.00) Dollars plus delay damages, punitive damages, costs, interest, and other damages permitted by law.

**COUNT III  
BATTERY**

30. The averments of the preceding paragraphs are incorporated herein and made a part hereof.

31. In the alternative and pursuant to Pennsylvania Rule of Civil Procedure 1020(d), the conduct by Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, by and through its agents, servants and/or employees, upon Plaintiff, **APRIL MAGOLON**, constituted a battery.

32. As a result of the aforesaid, Plaintiff, **APRIL MAGOLON**, has suffered injuries and damages as set forth length in the preceding paragraphs.

**WHEREFORE**, Plaintiff, **APRIL MAGOLON**, demands damages of the Defendant in a sum in excess of Fifty Thousand (\$50,000.00) Dollars plus delay damages, punitive damages, costs, interest, and other damages permitted by law.

**COUNT IV  
INTENTIONAL/RECKLESS INFILCTION OF EMOTIONAL DISTRESS**

33. The averments of the preceding paragraphs are incorporated herein and made a part hereof.

34. In the alternative and pursuant to Pennsylvania Rule of Civil Procedure 1020(d), the conduct of Defendant, **WALT DISNEY PARKS AND RESORTS, LLC**, described in the foregoing paragraphs of this complaint as set forth above was intentional and/or reckless and outrageous and put Plaintiff, **APRIL MAGOLON**, in fear of imminent bodily injury and humiliation causing severe emotional distress.

35. As a result of the aforesaid, Plaintiff, **APRIL MAGOLON**, has suffered injuries and damages as set forth length in the preceding paragraphs.

**WHEREFORE**, Plaintiff, **APRIL MAGOLON**, demands damages of the Defendant in a sum in excess of Fifty Thousand (\$50,000.00) Dollars plus delay damages, punitive damages, costs, interest, and other damages permitted by law.

**PANSINI & MEZROW**

BY: /S/ MICHAEL O. PANSINI  
MICHAEL O. PANSINI, ESQUIRE  
Attorney for Plaintiffs

**DATED:** July 14, 2010

**VERIFICATION**

I, April Magolon, state that I am the within named Plaintiff and that the facts set forth in the foregoing Complaint are true and correct to the best of my knowledge, information and belief; and that this statement is made subject to the penalties of 18 Pa. C.S.A. Section 4904 relating to unsworn falsification to authorities.

  
**APRIL MAGOLON**

DATED: 7-14-10